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March 17, 1999

VIA MESSENGER

RECEIVED

MAR 17 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th S.W.
Washington, D.C. 20554

Re CC Dockets No. 98-147

Dear Ms. Salas:

On Wednesday, March 17, 1999, the attached materials were re-distributed by e-mail to David L. Fligor of Commissioner Susan Ness' staff. Mr. Fligor requested that this presentation be re-sent to him, having originally been distributed to various Commission staff by counsel for Rhythms NetConnections, MachOne Communications, NorthPoint Communications and Covad Communications on or around March 9, 1999. The materials sent to Mr. Fligor were distributed pursuant to §1.1204(a)(10) of the Commission's Rules exempting from the Sunshine period prohibition presentations "requested by (or made with the advance approval of) the Commission or staff for the clarification or adduction of evidence, or for resolution of issues."

Pursuant to Section 1.1206 of the Commission's Rules, two copies of this letter are enclosed for filing. Please contact me should you have any questions in regard to this matter.

Sincerely,



Frank V. Paganelli

cc: David L. Fligor

attachment

No. of Copies rec'd 071
List A B C D E

Proposed Language: Alternative #1

##. We also take this opportunity to restate our decision that where ILECs offer access to unbundled loops pursuant to interconnection agreements, where required by the Act, or pursuant to our rules, or other commitments, they must make available DSL-capable loops on a nondiscriminatory basis, regardless of whether the incumbent LEC itself would provide advanced services to the customer served by the loop. We reaffirm our decision from last August that incumbent LECs must take “affirmative steps” to make available all copper loops free of loading coils, bridged taps, and other electronic impediments. *See Advanced Services Order* (August 7, 1998) at ¶ 53. This includes the requirement that incumbent LECs make available alternate all-copper unbundled loops by reassigning an end user (exchanging loops) to provide a physical copper loop where the end user is presently served by a loop that includes fiber transmission or passes through remote terminals or other impeding electronics. (¶ 166-67.)

##. In making this statement, we do not prejudice in any respect the outcome of the rulemaking on UNEs that we commence today. In the UNE remand proceeding, we tentatively conclude that ILECs should be required to offer access to loops. In addition, ILECs have committed to provide to competitive LECs UNEs available under existing interconnection agreements, including loops. In order to avoid customer disruption or to impair the continuing rapid deployment of broadband DSL services by competitive LECs during the pendency of the UNE rulemaking, we reconfirm that for DSL carriers, “loops” means loops capable of supporting digital, including xDSL, services.

Proposed Language: Alternative #2

##. The *Advanced Services* docket provides a recent and extensive record on the relationship among unbundled loops, DSL, and advanced services. All parties to that docket strongly supported the availability of unbundled local loops as the fundamental building block of DSL, which in turn underlies a significant segment of the advanced services market. Indeed, in petitioning for deregulation of their own advanced services offerings, the ILEC petitioners asserted that the availability of unbundled loops and collocation was both assured and sufficient to sustain competition from DSL competitive LECs. *See, e.g.,* Bell Atlantic Petition, Docket 98-11 (filed Jan 26, 1998) at 21. Based on this uncontested record regarding this fundamental monopoly element, it is highly unlikely under any standard for unbundling network elements consistent with the Act and the Supreme Court's decision that loops for DSL providers would not be an unbundled element.

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